

# WASHINGTON STATE GAMBLING COMMISSION

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## COMMISSION MEETING THURSDAY, OCTOBER 14, 1999 MINUTES

**Chairperson Ludwig** called the meeting to order at 1:30 p.m., at the Shilo Inn located in Ocean Shores. Chair Ludwig introduced the members of the Commission and staff present.

**MEMBERS PRESENT:** CURT LUDWIG, Chairperson;  
COMMISSIONER MARSHALL FORREST, Vice Chairperson;  
COMMISSIONER LIZ MCLAUGHLIN,  
COMMISSIONER PATRICIA HERBOLD, and  
Ex Officio Members SENATOR MARGARITA PRENTICE,  
SENATOR SHIRLEY WINSLEY, and  
REPRESENTATIVE ALEX WOOD

**OTHERS PRESENT:** BEN BISHOP, Executive Director;  
SHERRI WINSLOW, Deputy Director of Operations;  
ED FLEISHER, Deputy Director of Policy & Governmental Affairs;  
CALLY CASS-HEALY, Assistant Director, Field Operations;  
DERRY FRIES, Assistant Director, Licensing Operations;  
ROBERT BERG, Assistant Director, Special Operations;  
AMY PATJENS, Manager, Communications and Legal Department;  
MONTY HARMON, Program Manager  
JONATHAN McCOY, Assistant Attorney General, and  
SHIRLEY CORBETT, Executive Assistant

**Chairperson Ludwig** introduced Monty Harmon, who was recently promoted to the position of Program Manager for the Financial Investigations Unit. Chair Ludwig reviewed changes to the agenda which included moving the qualification reviews to Friday's agenda, and noting some Phase II reviews were deleted from the agenda.

### 1. LICENSE APPROVALS

#### **New Licenses, Changes, and Tribal Certifications:**

**Chair Ludwig** questioned what the term "combination license" meant. **Director Bishop** explained that a few years ago, a decision was made to provide a combination license—which allows the smaller non profits to engage in Bingo, raffle and amusement game activities, up to a general limit of \$50,000 rather than having multiple licenses to do low levels of these various activities.

**Commissioner McLaughlin** made a motion seconded by **Commissioner Forrest** to approve the new licenses, changes, and tribal certifications as listed in the agenda packet. *Vote taken; motion carried with four aye votes.*

### 2. REVIEW OF FRIDAY'S AGENDA

**Amy Patjens**, Manager, Communications and Legal Department, advised there would be several rules packages on the agenda Friday, as well as a staff report by Laura Rau regarding Satellite Bingo. The first rules package will address promotional contests of chance. Ms. Patjens noted that recent study group discussions resulted in a decision to recommend changes that are significant enough to warrant

recommending the rules packet be held over for final action at the December Commission meeting.

**Ms. Patjens** reported the age limit rules package was up for final action. Another rule on the agenda dealt with an increase in license fees, and the last item related to Bingo advertisements. Ms. Patjens noted the last item on Friday's agenda (a vote to extend the moratorium from the net return requirements) is being moved to today's agenda.

**Chair Ludwig** announced there would be an executive session at the end of regular business this afternoon, and again noted some agenda items would be taken out of the sequence order posted. Chair Ludwig proceeded to agenda item #5.

5. **CARD ROOM CONTRACT UNDER APPENDIX C – HOUSE BANKED PILOT PROGRAM:**

**Habana Cafe and Casino, Tacoma:**

**Cally Cass-Healy** reported this organization is a commercial restaurant/lounge that has not operated a card room for six months. Therefore, they did request and were granted a six-month waiver. The waiver is based upon the full time participation of Rod Murray, the Chief Operating Officer. The organization is owned by Lounge Lizards LLC and is doing business as Habana Cafe and Casino. The LLC has two members – Emiel Kandi and James Hayes. Neither member of this organization has an interest in any other card room in the test program. This organization is requesting approval to conduct house banked card games with five house banked Blackjack tables. Special agents conducted a review of their internal controls and a pre-operations inspection. It was determined the licensee's operations are in compliance with all the requirements of Appendix B and C. At the time of the initial review, the licensee did not have all their employees hired, nor did they have their chips or cards. Since then, it has been reported that the chips and cards were in and 95 percent of the employees were hired. A follow-up will be completed prior to their opening. Ms. Cass-Healy affirmed that based on the review, approval to participate in the Commission's house banked card room pilot test as a Level II Phase I operation is recommended.

**Chair Ludwig** noted the Tacoma City Council had taken action to ban or place a moratorium against card rooms. **Ed Fleisher**, Deputy Director, affirmed the adopted ordinance allows the enhanced card rooms that were already open, or were on the list to be allowed, to operate for a six-year period.

**Commissioner Forrest** believed a strong emphasis should be made to the businesses encouraging them to be prepared for their inspections. **Ms. Cass-Healy** concurred and noted that it is not unusual to have to conduct Phase 1 follow-ups because the businesses are in the process of putting so many things together within a time limit. She believed it would be almost impossible to avoid doing the follow-up on a Phase I business.

**Commissioner Herbold** asked for clarification on the six-month waiver being based on the full-time participation of Rod Murray. **Ms. Cass-Healy** explained that Mr. Murray would be acting as the casino manager and noted that he had ten years of experience in the casino industry in Washington, Reno and Lake Tahoe. Commissioner Herbold questioned why a waiver would be granted in spite of the fact the club was not ready, and asked why they don't wait until they're ready rather than requesting a waiver and then saying they weren't ready. **Ms. Cass-Healy** clarified that Habana's was ready, and was required to have the waiver because they haven't been operating for six months with an experienced manager. Mr. Murray has the experience that allows them to open and start operating. Commissioner Herbold countered that they could not open because they didn't have the people and the chips. Ms. Cass-Healy responded that the chips and cards are now in, and they have 95 percent of their employees. Commission staff will confirm the rest of the employees are hired before the facility is allowed to open.

**Chair Ludwig** interjected that if they had not been placed on today's agenda, Habana's would not be up for approval until either late November or early December. **Ms. Cass-Healy** and **Ms. Winslow** both responded affirmatively.

**Commissioner Herbold** made a motion to approve Habana's Café and Casino as a Level II Phase I operation contingent upon the fact they not be permitted to open until they have everything taken care of

as specified in their inspection. **Commissioner Forrest** seconded the motion. **Chair Ludwig** inquired if Mr. Kandi would be ready under the conditions specified by the motion. **Mr. Kandi** affirmed, noting that everything had been completed. *Vote taken: motion carried with four ayes.*

6. **PHASE II REVIEWS:**

**Kenmore Lanes, Bothell:**

**Ms. Cass-Healy** reported that the Eleventh Frame Restaurant and Lounge, doing business as Kenmore Lanes, is a commercial restaurant, lounge, card room, fun center and bowling alley located in Bothell. The business is owned by Frank and Joanne Evans. The restaurant and bowling alley have been in operation for more than one year, and Frank and Joanne Evans do not have ownership interest in any other card room. Kenmore Lanes entered the card room enhancement program on February 28, 1997, and was approved for Phase I in October of 1998. The licensee is currently operating ten tables including one Caribbean Stud, two Let It Ride, and five Blackjack tables. The licensee also operates two additional poker tables. Agents conducted a comprehensive review of key operating departments and a review of gaming and organization records. In addition, the City of Kenmore was contacted and they confirmed the licensee was current with all local gambling taxes. The chief of the Kenmore Police Department was also contacted to determine if there had been any adverse impacts to local law enforcement agencies from house banked gaming. The licensee was cooperative during the review and corrected all violations noted. Based on the review, staff recommends approval of implementation to Level II, Phase II status for Kenmore Lanes.

**Commissioner Herbold** addressed the violation for failure to notify the Commission regarding a business loan in the amount of \$50,000 and asked how significant this was. **Ms. Cass-Healy** responded that in this case, since it was determined the loan came from the owner through the Corporation, staff wasn't as concerned. **Director Bishop** emphasized this type of issue would be a significant violation because introducing capital without notifying the Commission would not afford staff the opportunity to verify the capital is proper. Commissioner Herbold asked if had been taken care of via a promissory note and through proper processing methods. **Ms. Cass-Healy** affirmed. **Commissioner Forrest** asked how detailed of an investigation is required when such incidents occur. **Ms. Cass-Healy** advised that staff follows the paper trail to the end, until they find where the money came from.

**Chair Ludwig** asked if Frank and Joanne Evans owned all the stock in the Corporation. **Mr. Evans** responded that he and his wife own all the shares of Star Northwest. Chair Ludwig asked Mr. Evans to explain how he acquired the \$50,000. Mr. Evans explained that he owned the land and the building independent of the Corporation. The Corporation operates the business. The money was loaned for some remodeling work in the office space to comply with Gambling Commission requirements. The remodel was \$100,000 and Mr. Evans explained that he had the option to fund this through his own personal bank account because this was a building improvement, or, as advised by his accountant, to fund it through the Corporation. Mr. Evans wrote a personal check, to the Corporation and they paid the contractor bill. He advised that at the time, he never perceived this as a loan.

**Commissioner McLaughlin** made a motion to approve Kenmore Lanes (11<sup>th</sup> Frame Restaurant and Lounge) for Phase II status. **Commissioner Herbold** seconded the motion. *Vote taken: motion passed with four ayes.* **Mr. Evans** expressed his appreciation for the excellent work and assistance from agents Bill Kesel and Claudia Biermann.

**Diamond Lil's, Renton:**

**Ms. Cass-Healy** reported this organization consists of a card room, lounge and cafe organized under the GSG Corporation whose primary stockholders are Fred Steiner, Laurie Bender, and Keith Quayle. GSG Corporation also owns Freddie's Club of Renton which has been participating in Phase II house banked card games since June 12, 1998. Freddie's Club of Auburn is owned 100 percent by Fred Steiner and has been participating in Phase II house banked card games since April 9, 1999. In addition, Fred Steiner is a member of Casino Enterprises LLC which owns Freddie's Club of Everett. The Everett location has been participating in Phase I house banked card games since April 9, 1999. Diamond Lil's entered the card room enhancement program on February 12, 1999, with Phase I limits. The licensee is

currently operating ten tables including eight non-house banked Poker tables and two house banked Pai Gow Poker tables. Agents conducted a comprehensive review including review and observation of key operating departments and a review of gaming and organizational records. The City of Renton was contacted and they confirmed the licensee was current on all local gambling taxes. The records unit from the City of Renton was also contacted to determine if there had been any adverse local law enforcement impacts from house banked gaming. No reports had been made. The licensee was cooperative during the review and all violations were corrected. Therefore, staff recommends implementation approval to Level II, Phase II status for Diamond Lil's. **Mr. Fred Steiner** was available for questions. There were none.

**Senator Prentice** noted that she has been a representative for this part of Renton for over eleven years, and in all that time, she has never received a complaint about Mr. Steiners' clubs – the Diamond Lil's or Freddie's Club of Renton. Senator Prentice expressed her appreciation.

**Commissioner Forrest** made a motion seconded by **Commissioner Herbold** to approve Diamond Lil's for implementation to a Level II Phase II status. *Vote taken; motion passed with four ayes.*

## **7. REVIEW OF INTENT TO REMOVE CARD ROOM FROM THE HOUSE BANKED PILOT ADJOURNMENT**

**Ruby's Casino, Kent:**

**Chair Ludwig** inquired if the owners were present and it was determined they were not.

**Ms. Patjens** reminded the Commission this item was introduced last month, and that there was discussion about some particular facts. There was also some discrepancy about who had actually replaced the funds in the player-supported jackpot account --whether it had been some prior shareholders, or whether it was the current shareholders. The Commission asked if it would be possible for the parties to get together and stipulate to the facts. Ms. Patjens reported that the parties were able to resolve some of the facts; they were able to agree on who had replaced the funds in the account. However, there were a couple of facts they did not feel they could stipulate to, particularly those involving the question of how involved in the business the Chaudry's were prior to July 1999. Their original contention had been that they had no involvement in the business (either the mother or the children) until about July.

**Ms. Patjens** explained that instead of bringing the witnesses before the Commission and having a cross examination and asking them questions, staff thought it might be easier to stipulate to having an administrative law judge provide a findings of fact. The parties have concurred. They have asked an administrative law judge to hold a hearing within 60 days to make those factual determinations. After the order and findings are received from the administrative law judge, the Commission would receive the stipulation(s) and could then discuss whether to remove the organization from the pilot program, or whether there might be some other penalty the Commission chose to impose. Ms. Patjens noted the case was officially continued to this Commission meeting and asked the Commission to officially continue this issue until the Findings of Fact are received from the administrative law judge.

**Commissioner Forrest** concurred and asked how staff would get the parties to move promptly. In fairness to the program and the parties, he did not want this to pend for six to nine months.

**Commissioner McLaughlin** questioned if it did pend, would the organization still able to operate. **Ms. Patjens** affirmed and noted that one of the things added into the stipulation was that the hearing must be held within 60 days so there isn't a prolonged process. Once the administrative law judge conducts the hearing, most decisions are received within 30 days (even though they have up to 90 days). Ms. Patjens anticipated the earliest the Commission would receive the case back would be in January. She didn't think the hearing could be conducted and an order received back in time for the November/December Commission meeting.

Commissioner Forrest made a motion seconded by Commissioner Herbold that the Commission continue the matter pursuant to the stipulation between the agency and the Shaudry family. *Vote taken; motion passed with four ayes.*

**8. OTHER BUSINESS/GENERAL DISCUSSION/COMMENTS FROM THE PUBLIC**

**Vote to Extend the Temporary Moratorium for Complying with Net Return Requirements – WAC 230-20-058:**

**Ms. Patjens** introduced the discussion to extend the current moratorium. The current WAC is written broadly and says the current moratorium will conclude on February 29, 2000, or on such a date to be determined by the Commission. Ms. Patjens advised that a rule change would not be needed to extend the moratorium, but felt it would be appropriate to have a formal vote on the record noting the Commission voted to extend the moratorium. Ms. Patjens reported that staff recommends the moratorium be extended to January 1, 2001. Staff will bring forward a rules package dealing with all the net return issues in September of 2000 -- the rules would actually go into effect by January 1, 2001. This timeframe will provide more time to study impacts.

**Commissioner McLaughlin** offered her concurrence. **Chair Ludwig** believed the industry was fully supportive of the continuation of the moratorium, and opened the meeting for public comments. There were none.

Commissioner Herbold made a motion seconded by Commissioner McLaughlin to extend the temporary moratorium for complying with net return requirements as set forth in WAC 230-20-058 until January 1, 2001, or such other date as the Commission deems appropriate. *Vote taken; motion passed with four ayes.*

**Ms. Patjens** announced a possible change of date for the December Commission meeting. She noted the Commission normally meets once a month, but not in December. However, because two Commissioners were unavailable for the November meeting, there would not be a quorum. The meeting was subsequently rescheduled for December 2<sup>nd</sup> and 3<sup>rd</sup>. One of the items scheduled for discussion at the November (now December) meeting was a license fee increase. Traditionally license fee increases take place on January 1<sup>st</sup> of the year, which means they actually have to be effective by December 31<sup>st</sup> of the prior year. Due to the reschedule of the November meeting to December, it would not be possible to address this license fee issue and meet the filing requirements. Therefore, an option would be to hold a special meeting on November 30<sup>th</sup>. Instead of creating a special meeting, staff recommends changing the date of the meeting from December 2<sup>nd</sup> and 3<sup>rd</sup>, to November 30<sup>th</sup> and December 1<sup>st</sup>. This would allow for all the necessary business to be conducted in two days rather than three days. It was determined a final decision on rescheduling the meeting could not be made because Commissioners needed to check their schedules for availability. The Commission will post the meeting date on their Website as soon as quorum availability is established. The meeting will be conducted at the Port Ludlow Conference Center as previously planned.

**Chair Ludwig**, called for public comments. There were none.

**9. EXECUTIVE SESSION TO DISCUSS PENDING INVESTIGATIONS AND LITIGATION**

**Chair Ludwig** recessed the regular meeting at 2:30 p.m. and reported an executive session would be conducted to discuss pending investigations and litigation, no other action will be conducted other than reconvening to adjourn.

**10. ADJOURNMENT**

**Chair Ludwig** called the public meeting back to order and immediately adjourned the meeting at 4:00 p.m.

**WASHINGTON STATE GAMBLING COMMISSION**

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**COMMISSION MEETING  
FRIDAY, OCTOBER 15, 1999  
MINUTES**

**Chairperson Ludwig** called the meeting to order at 9:30 a.m., at the Shilo Inn located in Ocean Shores. He noted that due to changes in yesterday's agenda, today's agenda would not be exactly as printed. The qualification reviews were carried over, and Item #8 on today's was addressed on Thursday.

**MEMBERS PRESENT:**

**CHAIR CURT LUDWIG, Chairperson;  
COMMISSIONER MARSHALL FORREST, Vice Chairperson;  
COMMISSIONER ELIZABETH McLAUGHLIN,  
COMMISSIONER PATRICIA HERBOLD, and  
Ex Officio Members SENATOR MARGARITA PRENTICE,  
SENATOR SHIRLEY WINSLEY, and  
REPRESENTATIVE ALEX WOOD**

**OTHERS PRESENT:**

**BEN BISHOP, Executive Director;  
ED FLEISHER, Deputy Director of Policy & Governmental Affairs;  
DERRY FRIES, Assistant Director, Licensing Operations;  
ROBERT BERG, Assistant Director, Special Operations;  
AMY PATJENS, Manager, Communications and Legal Department;  
JONATHAN McCOY, Assistant Attorney General; and  
SHIRLEY CORBETT, Executive Assistant**

**1. APPROVAL OF THE MINUTES – SEPTEMBER 9 & 10, 1999, MEETINGS:**

**Commissioner Forrest** made a motion seconded by **Commissioner Herbold** to approve the minutes of the September 9 & 10, 1999, meeting as presented. *Vote taken; motion carried with four aye votes.*

**2. STAFF REPORT:**

**Satellite Bingo:**

**Ms. Laura Rau**, Nonprofit Coordinator, reported that over the past several years, staff, licensees and the Commissioners have worked very hard to permit Satellite Bingo. At first, the focus was to push for the Legislature to pass a law allowing it, but rather than go for a new law, the Gambling Commission was urged to develop rules which would allow Satellite Bingo. By the end of 1998, several rules were drafted and amended which began the process of legalizing Satellite Bingo. Approximately one year later on September 3, 1999, Satellite Bingo began operation at 41 Bingo halls in Washington under the direction of a company called Washington Charity Satellite Bingo. This company currently serves as a licensed Linked Bingo provider and is the only Linked Bingo provider licensed in Washington State at this time.

**Ms. Rau** noted that Satellite Bingo is broadcast live to all participating halls via satellite. It is played every day at 1 p.m. and at 8:30 p.m., so the halls fit it into their regular session schedules. The game is called from a mobile studio in Spokane, where three halls or locations are used based on the day of the week on which they are open for regular Bingo sessions, and the calling will rotate between these three

halls. Each Satellite Bingo card is sold for \$1.00. It is a hidden face card in which numbers are predaubed based on the date. So, on an even date all even numbers are predaubed and on an odd date, all odd numbers are predaubed. Once that is done, the actual calling begins and the game is played to a Texas blackout which means all numbers on a card must be covered in order to have achieved a Bingo.

**Ms. Rau** advised that there are three different kinds of prizes available to Satellite Bingo players. The largest prize available is called the bonus prize. It is guaranteed to be awarded approximately every eight to ten weeks. This bonus prize is a \$25,000 prize at the 1 p.m. game, and a \$50,000 prize at the 8:30 p.m. game. This prize is awarded if a player receives a Texas blackout within a predetermined amount of numbers called. The money for this prize accrues based on a percentage of the gross receipts. Once it reaches \$25,000 for the 1 p.m. game and \$50,000 at the 8:30 p.m. game, the prize becomes a must-go prize and the specified amount of numbers called within which the bonus prize is eligible increases. This gives the players a better chance to win.

The second largest prize available is called the main prize and is guaranteed at every Satellite Bingo game if the bonus prize is not won. The main prize amount, like the bonus prize is also based on a percentage of the gross receipts and is awarded to the first person who wins a Texas blackout if the bonus prize is not awarded within the predetermined amount of numbers called. So far, the main prize amount has been averaging from about \$1,000 to \$1,500 at the 1 p.m. game to anywhere from \$2,000 to \$5,000 at the 8:30 p.m. game.

The third prize, which is guaranteed at every game and at every hall, is called the consolation prize. It is awarded everywhere, including the hall where the main or bonus prize has been won and it is a \$100 prize at both the 1 p.m. and 8:30 p.m. games.

**Ms. Rau** reported that the data she received from Washington Charity Satellite Bingo for the first month indicates sales are increasing, but very gradually. The average spend per player started out at about \$3, which means that each player was buying three cards at \$1 each. That has now increased to about \$4 per player. Feedback from the players and the halls is increasingly positive. **Ms. Rau** affirmed that she receives data on a biweekly basis regarding the average prizes awarded, amount of players, and average dollar spent per player. Satellite Bingo has now been operating for one and a half months, and hopes for a long and prosperous future.

**Commissioner McLaughlin** asked if the charities believe it has helped increase the number of people who play their ordinary games. **Ms. Rau** responded that it was a little early to tell and that she would need three to four months of statistics. She affirmed the players seem to enjoy themselves. **Chair Ludwig** asked if it would improve their income situation. **Ms. Rau** said they would be looking at overall sales in about three to four months, so far, they were mainly looking at the Satellite Bingo sales.

**Commissioner Forrest** inquired if most halls participated. **Ms. Rau** noted that right now there were 41 halls. She has received calls from other interested halls. Larger halls are participating at this point, but any hall can participate for the same price, so it is not exclusive to large halls.

**Senator Winsley** asked how the revenue is shared. **Ms. Rau** gave an example of selling 100 tickets, half would go to the prize pay-outs, (that money is sent to Washington Charity Satellite Bingo) and it is divvied up between the bonus prize and the main prize. The rest is split between the hall and the provider—25 percent (\$25) would go to Washington Charity Satellite Bingo and the other \$25 would be the hall's to keep. There were no further comments.

### **3. PROMOTIONAL CONTESTS OF CHANGE:**

**Ms. Patjens** reminded the audience that she would be asking to hold this rules package over an additional month. The rules have been on the agenda for four months, but the agency wanted to give groups such as the charities more time to respond. After the last Commission meeting, staff met to

discuss some of the points that had been raised during the last three months and there were additional changes.

**Ms. Patjens** addressed the definitions of a promotional contest of chance under WAC 230-46-020. Under the original rules, a promotional contest of chance was defined as a scheme that was designed to promote a specific business product or service. The language "other than gambling activities" was inserted. Staff heard from a number of people about this and asked if we really needed to restrict promos and not allow promos to be linked to gambling activities. Staff concluded there are no regulatory concerns with allowing promos and gambling activities to be linked. However, with the language added in Item 3B, nothing came immediately to mind as a promo that would be linked to a gambling activity, that would fit within the restrictions in Item 3B. Staff struggles with businesses that want to say, "Come in and buy \$5 worth of pull tabs -- and if you do that, you will be entered into a contest" or if they say "We'll let you be entered into a contest one time per day, per customer."

**Ms. Patjens** pointed out that the proviso in Item 3B subsection 4, would not be broad enough to allow a promo when a player buys \$5 worth of pull tabs, allowing that player to automatically be entered into a contest. **Commissioner Forrest** believed we were adopting a complicated rule to achieve a purpose that a straightforward rule already achieved. He asked what was being gained by taking out the language about other gambling and then suggesting new language that achieves the same effect. Ms. Patjens affirmed the suggested language was an attempt to make things clearer.

**Ms. Patjens** noted Item 3-C has been called the "No Fee Bingo Rule." It sets forth the different restrictions on No Fee Bingo, limits the value of the prizes to \$25, and sets a time limit of 30 minutes for conducting the No Fee Bingo Game. She noted there have been a variety of proposals made, particularly by the WSLBA. They have suggested if No Fee Bingo is allowed, that it be allowed one time a week. Another alternative was submitted to allow No Fee Bingo two times a week. Ms. Patjens noted that when the rules were originally filed, Director Bishop expressed his concerns about having a rule that was this specific -- that it really put the agency into regulating this activity more than they wanted to regulate it. After staff meeting discussions, the recommendation was not to have the restrictions included. Ms. Patjens noted the main reason to have this rule package held over was because the charities have supported having No Fee Bingo as long as there were restrictions. If there aren't restrictions, it would very likely affect whether they support it or not. Ms. Patjens indicated that if the package was held over, staff would propose three different options. One is to leave 3C in, meaning that No Fee Bingo would be allowed with restrictions. Another option would be to remove the restrictions on No Fee Bingo, but still allow it to occur. Ms. Patjens commented that it may not be apparent, but Item 3B, the way it is currently written actually allows No Fee Bingo. The third option would be to not allow No Fee Bingo. Such action would require the deletion of the language in 3C, as well as the language in Item 3B.

**Commissioner McLaughlin** clarified the process staff had been following the past two years and inquired what would happen to an organization if the Commission decided not to allow No Fee Bingo, and an organization continued playing. **Director Bishop** affirmed this is an example of why the issue was being discussed. He explained that if the organization was a licensee, the Commission would have the option to impact their license. Commissioner McLaughlin noted that if a non-licensee played illegally, the Commission would have no way to impact them. **Director Bishop** concurred and noted doubt that prosecutors would spend their time on such a low level offense. However, he emphasized that the Gambling Commission is a law enforcement agency tasked with a duty to regulate and to control gambling. He suggested that since there is no method of prosecuting this kind of violation, the Commission shouldn't be regulating the activity. **Commissioner Forrest** disagreed and emphasized that it is the prosecutor's duty to his community to decide how he should conduct his office. He believed that if a licensee finds out an unlicensed business is engaging in No Fee Bingo, that licensee has the right to go to their prosecuting attorney and complain about it.

**Chair Ludwig** noted the Commission wasn't initially involved with this activity. Staff later explained that the statute required the Commission to regulate promotional games of chance. Commissioners were



subsequently advised the WSLBA (tavern owners) wanted some type of regulation. The Commission also discovered the charitable bingo operators didn't oppose the activity if it was conducted in a manner similar with the restrictions as proposed in Item 3C. **Ms. Patjens** affirmed the rule is an attempt to regulate this activity pursuant to the statute, even though some people feel it is not a gambling activity. Chair Ludwig asked why the delay would be necessary. Ms. Patjens responded that if the inclination is to pass the rules as they are and to allow No Fee Bingo with restrictions, that is how the rules packages is designed. If, however, the decision is one of the other two alternatives, for example, if the Commission did not pass 3C at all, it would require the removal of some language in 3B. Chair Ludwig reported that the Commissioners received copies of proposed legislation dealing with promotional contests of chance and suggested waiting to see what happens in the next legislative session. Ms. Patjens responded that if the inclination is not to move ahead, there are other rules that would be affected. Chair Ludwig believed if they moved ahead, it may be temporary, especially if the proposed legislation is passed. Ms. Patjens believed the proposed legislation would allow No Fee Bingo.

**Chair Ludwig** asked for clarification if this activity was outside the Commission's authority to authorize and regulate. **Director Bishop** expressed his concern that if a decision is made to regulate this activity and to pass a rule that says No Fee Bingo can be played, he wasn't sure this would get the agency out of the existing dilemma. He affirmed there is a hammer to regulate licensees by impacting their license. However, there isn't a hammer to regulate non-licensees because the only method of regulating or controlling the activity is through the local prosecutor. **Commissioner Forrest** indicated it would be helpful if the Legislature was more specific about these types of activities. However, he believed that because someone may engage in an activity that the Commission can't do anything about directly (because they don't have a license which can be revoked), and because the prosecutor may not pursue the case, is an unpersuasive reason. He believed there was general agreement that this limited form of No Fee Bingo was helpful, particularly to the smaller operators. Commissioner Forrest favored regulation of No Fee Bingo. However, if the Commissioners were not in favor of regulation, he believed they could direct staff to prepare a rule that will remove any effort to control No Fee Bingo.

**Commissioner Herbold** favored postponing action until next month. She indicated the series of rules, versus originals and alternatives depending on which course of action was taken, was very confusing. Commissioner Herbold emphasized that verbally removing segments of some rules and adding to others, made it difficult to know what is being voted on. She recommended postponement so staff could prepare succinct versions of the rules in response to the feedback that was provided by the WSLBA and the non profits. **Chair Ludwig** affirmed and opened the issue for public comment.

**Steve DeCou** distributed information recommending No Fee Bingo being allowed for three hours. **Chair Ludwig** asked Mr. DeCou if he was operating No Fee Bingo, and Mr. DeCou affirmed. **Commissioner McLaughlin** asked if each prize was valued at less than \$25 or if it was limited to \$25 per game. Mr. DeCou stated each prize was valued at less than \$25, and noted his recommendation that prizes not exceed \$100 per week, or \$5,000 per year.

**Commissioner McLaughlin** asked if it was \$25 per game or \$25 an item, not to exceed \$100 a week. **Mr. DeCou** advised that the letter he received from the Gambling Commission indicated a prize could not exceed \$25. **Ms. Patjens** affirmed the letter issued by the Commission stated that each prize could be \$25 with an aggregate value of no more than \$200 for the session. Mr. DeCou reported that he provides approximately 18 prizes; however, most of them come from the Dollar Store. **Chair Ludwig** clarified that is per session, not per game. Mr. DeCou affirmed.

**Mr. Kevin Crum**, representing the Charitable and Civic Gaming Association, summarized his group's comments. They supported the original rules proposed. There were alternatives presented, and Mr. Crum affirmed they could live with either alternative #1 or #2. He noted they worked specifically with the WSLBA on alternative #1—and he didn't believe alternative #2 mattered. Mr. Crum stated his Association wholeheartedly supported the adoption of the rules today, in any of the alternative forms. However, if it required one more month to take formal action that would be fine. If it is determined that No Fee Bingo is something the Gambling Commission didn't want to regulate, Mr. Crum advised his

Association would take the position recommending the rules package be modified so that No Fee Bingo be declared a non allowable activity.

**Commissioner McLaughlin** asked what would be gained by waiting and whether the Commission would receive a different rule package. **Ms. Patjens** replied that staff would put together three different rules packages. One package would be to allow No Fee Bingo with restrictions; another package would be to allow No Fee Bingo without restrictions; and the last package would be to disallow No Fee Bingo. Each package would have its own set of rules that could then be voted upon.

**Commissioner McLaughlin** was concerned about the existing rule that allows only 30 minutes to play, which hardly gives enough time to pass out the cards. **Commissioner Forrest** believed this could be addressed when the rules are presented. One option would forbid No Fee Bingo, which would end the question about the number of minutes. Similarly, the next choice would be to allow it with no regulation and lastly, allowing it with restrictions. If the last alternative of allowing it with restrictions is favored, the Commission would have to address time elements and other rules. **Chair Ludwig** supported delaying a decision and to further discuss the three alternatives at the next meeting. Chair Ludwig asked for any further public comment.

**Bob Tull** advised that he would appreciate an additional month. No other comments were offered. Chair Ludwig called for a motion.

**Commissioner McLaughlin** made a motion, seconded by **Commissioner Herbold**, to hold this rules package over for one month and to instruct staff to develop three versions of the rule as discussed for the next meeting.

**Commissioner Forrest** advised that he would vote against the motion because he believed the Commissioners knew enough; whether they want to regulate in some fashion, not regulate, or ban the activity. Commissioner Forrest advised that if the option was to regulate, which is his preference, staff could prepare the regulatory package and the Commission could address any amendments that might come up.

**Commissioner McLaughlin** agreed to modify her motion -- instead of directing staff to develop three options, directing staff to develop one option to allow no fee bingo with restrictions. **Commissioner Herbold** concurred with the amendment not to place an out-right ban and agreeing to allow No Fee Bingo with restrictions. **Chair Ludwig** restated the amended motion to defer the matter for one month with the understanding that staff will prepare the proposed rule packet to allow No Fee Bingo with restrictions.

**Ms. Patjens** explained that she didn't expect the package to look much different than this month. The packet contained the original version, the alternatives submitted by the Licensed Beverage Association, and the alternatives submitted by Mr. DeCou. It would be different if No Fee Bingo was not allowed. **Commissioner Herbold** asked what would happen to 3B. Ms. Patjens said 3B would stay the same if No Fee Bingo with restrictions is allowed. Commissioner Herbold asked for clarification on the alternate submitted by the WSLBA, specifically the 60-minute contest time period that would then coordinate with the amendment in 3C which limits the activity to 60 minutes per day, one day per week -- even though 3B doesn't say per day per week. Ms. Patjens acknowledged the discrepancy. Commissioner Herbold advised that these types of discrepancies were why she would like each package to be completely succinct when prepared for formal action. She believed it would be cleaner to have a package that spelled out whether the restrictions are the kinds the Commissioners want, and whether staff feels it is a scenario they can regulate. She also advised that she would ask for Director Bishop's opinion on packages prepared for voting.

**Director Bishop** affirmed the agency can regulate the activity however, more rules may be necessary. **Ms. Patjens** explained that the way #3 is currently worded under 46-035, the language is broader than just No Fee Bingo. **Director Bishop** clarified that he wasn't trying to prohibit the activity of No Fee

Bingo, he was simply trying to get it authorized under a general authorization for promotional contests of chance. Director Bishop believed staff could put everything in proper perspective for the next meeting. **Commissioner McLaughlin** asked if the motion covered other promotional games of chance. **Chair Ludwig** replied in the negative. **Director Bishop** clarified the rules in package 3A and 3B are general in nature to promotional contests of chance, 3C and 3D are specific to the activity of conducting a game similar to Bingo such as a promotional contest of chance. **Senator Winsley** suggested a chart be developed with each rule, identifying the differences.

**Chair Ludwig** called for a vote on the motion to defer consideration until the next meeting and directing staff to propose a rule permitting No Fee Bingo subject to restrictions. **Commissioner Herbold** asked if they were going to deal with the more general statute. **Commissioner McLaughlin** said she would accept a friendly amendment.

**Commissioner Herbold** made a motion seconded by **Commissioner McLaughlin** to amend the motion to include those sections of Item 3 that address promotional contests of chance in addition to No Fee Bingo and add them to the package for consideration at the next meeting. *Vote taken; amendment passed with four ayes.*

**Chair Ludwig** called for public comments. No public comments were offered. Chair Ludwig called for a vote on the motion, as amended. *Vote taken; motion as amended passed with four ayes.*

4. **AGE LIMIT TO PARTICIPATE IN GAMBLING ACTIVITIES:**

**Ms. Patjens** noted this rule addresses two items – one is the age limit to participate in gambling in this state, and the second relates to offering liquor as prizes. This item is up for final action, but staff is asking it be held over until next month so it can be considered along with Item #7. This relates to the petition that is under Item #7 about Bingo advertisements. *[See Item #7 for comments.]* **Chair Ludwig** asked if there were any objections to holding Item #4 over until the next meeting. There were none.

7. **PETITION TO AMEND BINGO RULES – BINGO ADVERTISEMENTS DIRECTED AT CHILDREN:**  
**Ronald Del Mastro:**

**Ms. Patjens** reported that under the Administrative Procedures Act, as well as Commission rules, any citizen can petition for a rule change. Mr. Del Mastro offered a petition change and has expressed concerns about seeing children playing Bingo without an adult or guardian at a Bingo hall. This is one of the rules discussed under Item #4. Mr. Del Mastro was also concerned that the advertising for Bingo games was actually targeted at kids.

**Ms. Patjens** explained that the petition is also a complaint about a Bingo game in Renton. Ms. Patjens affirmed people who are under 18 can play Bingo as long as they are with an adult member of their family who is at least 18 years of age. Immediate family means someone's spouse, parents, or grandparents. The agency will be sending the organization a follow-up letter because it does appear that some of the children who were at the game were not with their parents. Instead, some of them were with an adult, but it was an adult from their daycare organization. Under the Administrative Procedures Act the commissioners have to act on a petition within 60 days. The petition was received on August 24<sup>th</sup>, which was not in enough time to have it presented before the September Commission Meeting.

**Ms. Patjens** advised there are three options. One is to just simply deny the petition in writing, explaining the reasons for denial, and where appropriate, address the concerns that were raised by the petitioner. Another is to initiate the rule making procedures, which they can do by filing the petition as is, or by filing some type of an alternative. She noted the Commission received a letter from Don Kaufman, Big Brothers/Big Sisters in Spokane, supporting allowing children to play if they are with their parents. They also supported not targeting children in ads.

**Ms. Patjens** affirmed that staff has concerns about the agency getting involved in the regulation of advertisement language. The Commission is a regulatory and licensing agency, and regulating the language of advertising is outside the agency's typical work. There are First Amendment issues

regarding the regulating of any type of speech. If rules are passed that deal with a lot of speech issues, Ms. Patjens believed the agency could expect to have challenges.

**Ms. Patjens** indicated there is an alternative. Staff's original recommendation would be to simply deny the petition. Staff felt they have followed up on the petitioner's concerns about the Bingo hall. An alternative would be to add language that says something to the effect that if one is going to be advertising for a kids' day event, they must include language in the advertisement that says only kids who are with an adult member of their family pursuant to WAC "X" are allowed. Staff finds this acceptable and it would fit with Item #4 where age limits are addressed. **Chair Ludwig** clarified that putting the language with Item #4 meant they could accomplish their objective with one rule rather than two. **Ms. Patjens** affirmed, and noted staff would prefer to insert that language so that the public has it in a logical location, and to provide the proposed rule to Mr. Del Mastro. Chair Ludwig asked if Mr. Del Mastro was present and was told he was invited, but did not come.

**Chair Ludwig** clarified that Ms. Patjens is asking the Commission to consider holding the matter over until they consider Item #4 regarding age limits. **Ms. Patjens** responded that the recommendation is to hold Item #4 over until next month. Regarding the petition, and to comply with the Administrative Procedures Act, the Commission would need to direct staff (if they are not going to deny the petition) to initiate some rule making. **Commissioner Forrest** asked if it would be sensible and sufficient if the Commission denied the petition, and provided a brief letter indicating the problem would be addressed in general terms in another rule. Commissioner Forrest thought the idea of a daycare taking children to play Bingo was terrible and believed this was an excellent example of why citizen input is a good thing. **Ms. Patjens** affirmed that to deny the petition, and then send a letter to the petitioner letting him know the Commission will be addressing the rule at the next meeting would be in compliance with the APA.

**Commissioner Forrest** made a motion second by **Commissioner Herbold** that the Commission deny the petition for a rule change by Mr. Del Mastro, and to send him a letter explaining the Commission would resolve or correct this particular situation in another rule.

**Chair Ludwig** opened the meeting for public comment. No additional comments were provided. Vote take; motion carried with four ayes.

## 5. **INCREASE IN LICENSING FEES:**

**Ms. Patjens** reported that this item addresses proposing increases in license fees. She noted a brief staff report was provided at the last Commission meeting. The proposed fee increases are consistent with the 601 limits.

**Ms. Patjens** explained Item 5A deals with the fees for charitable and non profit organizations; 5B, the fees for commercial operators; and 5C, the fees for individuals. Item 5D is a housekeeping change dealing with the fees that were for pull tab service businesses, which isn't needed because it has been incorporated into Item 5B. Item 5E is a repealer because all the information is already incorporated in the rules. Item 5F is also a repealer. The license fee increase was scheduled for 1998, and was not implemented until July 1st of that year. Last year the agency budget was reassessed, and it was determined the fee increase would not be needed. At that time, the fees were lowered to the 1997 rates, and refunds were provided to those who had paid the increased fees for half of 1998. The rule is no longer necessary since the refunds have been issued.

**Ms. Patjens** indicated staff would like to have the rules finalized by December 31, 1999, so the increases would apply to the renewals beginning January 1<sup>st</sup>, which is typically when the fee increases have been applied, and so there is no different treatment depending upon when a license is renewed.

**Ms. Patjens** noted there were a couple of small changes that deal with the fees for commercial operators. Although the changes are small, staff felt it was important that everyone had a chance to review them. This rule will be on the agenda for two months. The other item dealt with the fees for

charities. The net return task force would like to change this particular rule to allow some variances for businesses when they get above a certain gross receipts level. They can't change one rule now and come back and change the rule again next month, so they will merge everything into one rule. The changes would only be made for Bingo licenses. Ms. Patjens explained that right now, when someone gets licensed for a Bingo game, they're licensed up to a certain amount of gross receipts. If they go over the gross receipts and don't upgrade before they go over them, they can be assessed a penalty. The new language will provide for a variance. For example, if the organization is at a Class A level, and can normally have \$15,000 a year in gross receipts, if they go over that by \$1,000, there won't be any type of penalty assessed. Ms. Patjens reported that staff recommends filing the rules for further discussion.

**Commissioner Forrest** made a motion to file the proposed rules in Item 5 for further discussion, with final action scheduled for the next meeting. **Commissioner McLaughlin** seconded the motion.

**Chair Ludwig** stated that as in the past, if the Commission adopts these rules the first of the year, and then finds that some adjustment should be made, they can still refund or postpone the effective date.

**Ms. Patjens** affirmed. However, she thought this didn't seem quite as likely to happen with 601 because the agency would get locked into the current level -- if they are rolled back, then the fee would be locked into the new lower level.

**Chair Ludwig** commented that the licensees as well as the Commission felt good about delaying the implementation of fee increases and/or giving refunds when possible. Chair Ludwig called for public comment and indicated there would be another opportunity to address this issue next month. Vote take: motion passed with four ayes.

#### 6. **GAMBLING SERVICE SUPPLIER RULES:**

**Ms. Patjens** addressed another rule change relating to service suppliers. Staff determined there are two groups of businesses that aren't currently licensed. One group consists of businesses that make a part of a component in a manufacturing process. For example, there might be a company that makes part of an electronic Bingo card dauber. Then, that piece is actually sent to another manufacturing company for final installation. In the past it hasn't been clear whether the person making the component needed to be licensed as a gambling service supplier, or licensed as a manufacturer. This rule would stipulate they have to be licensed as a gambling service supplier.

The other group of businesses this would affect is the businesses that train individuals for activities that require a license. For example, there have been at least three dealer schools that staff are aware of that have opened since house banked card rooms have been allowed. These have not been licensed in the past. Two are owned by private individuals, one has actually closed, and the other dealer school is operated through Grays Harbor Community College. Under the proposed rules, if the school is an accredited institution of higher education, they won't have to be licensed. However, their employees, who are actually doing the training, would need to be licensed as a gambling service supplier. The agency will be sending letters to the dealer schools letting them know about the rules.

**Commissioner Forrest** verified that if a community college offers this program, they are not required to be licensed, but the Commission will require their faculty members actually teaching this program to be licensed. **Ms. Patjens** affirmed and explained this is important so the person actually doing the training goes through a background check. Staff did not want someone with a professional gambling conviction of cheating instructing new dealers. Commissioner Forrest asked if there had been any discussions with the college associations. **Director Bishop** affirmed and advised that staff will continue to be in contact with them. **Commissioner McLaughlin** didn't think one agency could license another agency. Director Bishop confirmed the agency didn't want to license the schools, they just wanted to make sure the people teaching the dealer schools meet personal qualifications for being involved in gambling.

**Senator Winsley** asked how a gambling service supplier representative is licensed and asked if they had to study something or pass a test. **Director Bishop** advised that the representative completes an

application and noted the Commission doesn't certify they are qualified to teach the subject -- only that their personal history, their criminal background, or their credit rating would not prevent them from being involved in gambling. Senator Winsley asked if the reason staff wanted to go this route instead of asking the college was due to the rules of confidentiality. **Deputy Director Fleisher** responded in the negative and clarified that the instructor would have to apply for the license and would provide the confidential information directly, regardless of whether they work for a university or a private school teaching people how to deal card games.

**Senator Winsley** asked how much a license costs and questioned who pays. **Ms Patjens** said it would be no different than it is for card room employees or people who work as distributor representatives. Sometimes the cost is picked up by the employer and sometimes the individual pays. It is up to the employer how they work it out.

**Chair Ludwig** said he was not opposed to filing for further discussion, and indicated he wanted to think about licensing community college instructors. Chair Ludwig opened the topic for public discussion. **Mr. Vito Chiechi**, WSLBA, noted that the Commission should make sure the requirements are the same for businesses and/or institutions of higher education. He emphasized the industry wanted to make sure people who represent their industry are qualified and good people.

**Commissioner Herbold** made a motion seconded by **Commissioner Forrest** to file these rules and schedule them for further discussion at the next meeting. *Vote take: motion carried with four ayes.*

#### **8. OTHER BUSINESS/GENERAL DISCUSSION/COMMENTS FROM THE PUBLIC:**

**Director Bishop** presented an award given to the agency. Last month the agency, in conjunction with the King County Sheriff's Office, co-hosted the Western States Vice Investigator's Conference which was attended by over 175 officers. Commission agents, Dale Zlock and Gary Drumheller, taught classes on professional gambling, bookmaking, undercover operations and Asian gangs. Director Bishop displayed a plaque commending our instructors and thanking them for their participation.

**Senator Prentice** announced the next legislative round table session is scheduled for Tuesday, October 19<sup>th</sup> at the arboretum in Yakima. The primary focus will be problem gambling. All are welcome to attend.

#### **9. ADJOURNMENT:**

With no further business, a motion for adjournment prevailed at 10:40 a.m.

*Minutes submitted to the Commission for approval.*

*Shirley A. Corbett,  
Executive Assistant*